

**Testimony of Robert J. Garrity, Jr.,  
Assistant Director (Acting),  
Records Management Division,  
Federal Bureau of Investigation,  
before the  
House of Representatives  
Committee on Government Reform  
July 10, 2003**

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**Mr. Chairman and members of the Committee, thank you for inviting Director Mueller here today to testify in this hearing, in which the Committee is examining problems of delayed entry for aliens traveling to the United States for legitimate business practices. I am here to discuss the challenges of ensuring security without unduly disrupting legitimate commerce. Unfortunately, Director Mueller could not be here today, so I have been designated to provide testimony in his stead. My name is Robert Garrity, and I have served as an FBI Special Agent since 1976. I currently serve as the acting Assistant Director of one of the FBI's newest divisions, the Records Management Division (RMD). Here with me today is David Hardy, who serves as the Chief of the Record/Information Dissemination Section, the section within the RMD responsible for the National Name Check Program. My goals today are to inform you of the FBI's visa name check process; provide you with an accurate assessment of how well this process is functioning; and describe to you the measures the FBI is taking to continually improve this process.**

**First, I want to emphasize to you that the FBI is sensitive to the impact that delays in visa processing may have on business, education, tourism, this country's foreign relations, and worldwide perceptions of the United States. With these considerations in mind, the FBI is working diligently with the Department of State toward the common goal of improving the expediency and efficiency of the visa clearance process. At the same time, the consequences of the FBI's mission on homeland security requires that our name check process be primarily focused on an accurate and thorough result. This means that there are instances when the FBI's review of a visa request must require as much time as needed to obtain an unequivocally correct result.**

#### **National Name Check Program**

**The National Name Check Program (NNCP) has the mission of disseminating information from the FBI's Central Records System in response to requests submitted by federal agencies, congressional committees, the federal judiciary, friendly foreign police and intelligence agencies, and state and local criminal justice agencies. For all except law enforcement requests, the program is to be operated on a fee-for-service basis, with the beneficiary of the name check paying for it, not the American taxpayers. The Central Records System contains the FBI's administrative, personnel and investigative files. The NNCP has its genesis in Executive Order 10450, issued during the Eisenhower Administration. This executive order addresses personnel security issues, and mandates National Agency**

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**Checks (NAC) as part of the pre-employment vetting and background investigation process. The FBI is a primary NAC conducted on all U. S. Government employees. From this modest beginning, the NNCP has grown exponentially, with more and more customers seeking background information from FBI files on individuals before bestowing a privilege - - Whether that privilege is government employment or an appointment; a security clearance; attendance at a White House function; a Green card or naturalization; admission to the bar; or a visa for the privilege of visiting our homeland; more than 70 federal and state agencies regularly request an FBI name check. Two specific visa request categories, Visa Condor and Visa Mantis, are relevant to the hearing today. In addition to serving our regular governmental customers, the FBI conducts numerous name searches in direct support of the counterintelligence, counterterrorism and homeland security efforts of the FBI.**

**Exponential Growth**

**Prior to September 11, 2001, the FBI processed approximately 2.5 million name check requests per year. In FY 2002, that number increased to 3.2 million. For FY 2003, the number of requests to date already exceeds 5.6 million and is expected to reach 9.8 million requests. That represents an increase in excess of 300%. Attachment A illustrates this explosive increase. This year, the FBI will**

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**process approximately 200,000 visa name check requests, including approximately 75,000 Visa Condor requests and 25,000 Visa Mantis requests.**

**Over Burdened System**

**I can tell you, Mr. Chairman, that with the advent of new visa screening requirements in late 2001, specifically the Visa Condor program, the FBI was overwhelmed by the increase in names to be checked. We did experience a backlog, and visas requested in the spring and summer of 2002 were delayed beyond the time period travelers had anticipated. We have all but eliminated the backlog, and have worked together with the State Department to ensure that any old visa requests have been accounted for and processed. The days of what some people would characterize as an unreasonable delay have now passed us by. I would now like to explain the process the FBI uses to conduct name checks on these visa requests.**

**FBI Name Check Process**

**It may be helpful to the Committee to follow along with Attachment B, a flow chart of the FBI visa name check work process. Consular officers worldwide determine whether a visa request falls into one of the special visa categories requiring additional scrutiny. Two of these categories are Visa Condor, relevant to certain individuals who are from designated countries and who satisfy additional criteria which may make them worthy of additional scrutiny, and Visa**

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**Mantis, relevant to certain individuals who will have access during their visit to American special technologies. The consular officer will submit their name check requests by cable, simultaneously to both the FBI and State Department headquarters.**

**In the next step of the process, the FBI communications center forwards the batches of names to be checked electronically to the name check program. The name is electronically checked against the FBI Universal Indices (UNI). The searches seek all instances of the individual's name and close date of birth, whether a main file name or reference. By way of explanation, a main file name is that of an individual who is, himself, the subject of an FBI investigation, whereas a reference is someone whose name appears in an FBI investigation. References may be associates, witnesses, conspirators, or a myriad of other reasons may exist to explain why an FBI Agent believed it important to index a particular name in an investigation for later recovery. The names are searched in a multitude of combinations, switching the order of first, last, middle names, as well as combinations with just the first and last, first and middle, and so on. It also searches different phonetic spelling variations of the names, especially important considering that many names in our indices have been transliterated from a language other than English.**

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**If there is a match with a name in a FBI record, it is designated as a "Hit", meaning that the system has stopped on a possible match with the name being checked, but now a human being must review the file or indices entry to further refine the names "Hit" on. If the search comes up with a name and birth date match, it is designated an "Ident." An "Ident" is usually easier to resolve.**

**Resolution Rate**

**Approximately 85% of name checks are electronically returned as having "No Record" within 72 hours. A "No Record" indicates that the FBI's Central Records System contains no identifiable information regarding to this individual. By agreement with State, partially due to our concern about the time factors in approving most visa requests, a No Record equates to a No Objection to the issuance of a visa. The substantive investigative divisions in the FBI, (i.e., Counterterrorism Division (CTD), Counterintelligence Division (CD), Criminal Investigative Division (CID) and the Cyber Division (CyD)) do not review visa requests where there is no record of the individual. Duplicate submissions (i.e., identically spelled names with identical dates of birth submitted within the last 120 days) are not checked and the duplicate findings are returned to State.**

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**Because a name and birth date are not sufficient to positively correlate the file with an individual, additional review is required. A secondary manual name search usually identifies an additional 10% of the requests as having a "No Record", for a 95% overall "No Record" response rate. This is usually accomplished within a week of the request. The remaining 5% are identified as possibly being the subject of an FBI record. The FBI record must now be retrieved and reviewed. If the records were electronically uploaded into the FBI Automated Case Support (ACS) electronic recordkeeping system, it can be viewed quickly. If not, the relevant information must be retrieved from the existing paper record. Review of this information will determine whether the information is identified with the subject of the request. If not, the request is closed as a "No Record."**

**The information in the file is reviewed for possible derogatory information. Less than 1% of the requests are identified with an individual with possible derogatory information. These requests are forwarded to the appropriate FBI investigative division for further analysis. If the investigative division determines there is no objection to the visa request, the request is returned to the name check dissemination desk for forwarding to the State Department. If there is an FBI objection to the visa request, the investigative division will prepare a written Security Advisory Opinion (SAO) and forward it to the State Department. In**

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reviewing these visa requests, the FBI has identified individuals attempting to enter the United States who are of serious concern to the FBI.

**Processing Times**

As in the name checks processes for 70 other agencies, the name check system accurately monitors the status of visa requests in the name check process. The system's metrics are a dynamic tool, allowing the FBI to identify when to add additional personnel to process visas. The metrics also provide an accurate tool to determine whether the name check process is causing delays for visa requests.

The FBI's goal is to have all requests completed within 120 days. Attachment C illustrates the current status of Visa Condor names checks, and Attachment D illustrates the same for Visa Mantis name checks. This status was taken on July 3, 2003. For example, for Visas Condor, the FBI received 7384 requests during the month of June 2003. The FBI resolved all but 649 of these requests, for a 92% resolution rate. In the month of May 2003, the FBI received 5,059 Visa Condor requests and has resolved all but 105 of these requests for a 98% resolution rate (See Attachment C). For Visas Mantis, the FBI received 2589 requests in the month of June 2003 and resolved 2226, or 86% of them (See Attachment D). Visas Mantis are particularly difficult to resolve due to the predominance of requests from China and the commonality of Asian names.



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**A common question we receive is, How long does it take to complete a visa request name check? As shown on these graphs, 86 to 92% are completed in 30 days. For both types of visa requests, 98-99% of the requests are resolved in 120 days.**

**Most name check requests that are over 30 days old are the result of the time required to retrieve and review field office record information. Some delay occurs at substantive analysts' desks, but this is to be expected. These analysts are assigned to the investigative divisions and are primarily assigned to the analysis of intelligence reports from around the world in order to support on-going investigations, or to support the flow of intelligence to policy makers. These are the best professionals, however, to review information in our records and to then make an informed decision on whether a requester of a visa represents a threat to our homeland, or is interested in illegally acquiring our targeted technology. Nevertheless, as I stated earlier, the FBI's resolves 99% of all types of visa requests within 120 days.**

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**These numbers provide you accurate information to assess whether, both in time and in numbers, the FBI name check process for visa requests unduly disrupts the legitimate commerce of this nation.**

**Process Improvement**

**As I have said, during the spring and summer of 2002 the FBI was unable to adequately account for visa request processing times. This is no longer the case. This was accomplished through clarification of the FBI name check database, software modifications that allowed development of detailed metrics, and the development of an internal FBI tracking system for SAO opinions. With these metrics, the FBI can allocate resources as necessary to meet requirements. And, as I have also already said, the FBI worked closely with State on visa name check procedures. These past six months have seen considerable improvement in the coordination of visa name check processing.**

**Improperly formatted cables are an obvious weak point in the visa submission process. The State Department submits their names by cable, whereas other agencies submit their requests by disc or tape and formatting errors are returned on disc to the requesting agency. This allows the requesting agency to identify and correct the errors in an electronic format. The State Department is working hard to resolve this problem by developing a system whereby visa requests**

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**will be submitted on disc through State as opposed to the current system of separate cables directly to the FBI. The FBI fully supports this effort. Currently, in anticipation of submission of visa requests by disc, the FBI and State Department's Visa Processing Center are developing common procedures and formats.**

**Recognizing the need for interim measures until the time that State can submit all visa requests on disc or tape, the State Department is batching unresolved cables held within their database and submitting them to the FBI. In order to avoid the duplicate name problem, the FBI has developed special codes and manipulates the name check application for each submission. This is a time consuming, but necessary process to support State's efforts. This week alone the FBI is running thousands of names submitted by State from State's database.**

**Personnel Dedicated to NNCP**

**The FBI recently increased name check personnel from 75 employees to 125 employees. This 65% increase was taken from within existing Records Management Division resources and designed to address the projected increase in name check requests since September 11. We also reorganized the unit, dividing it into two units, one for Personnel Security name checks and one for Homeland Security name checks. The new homeland security unit will allow us to better focus on sensitive name check programs such as visa requests. To clear older cases, the FBI brought in additional personnel from the field on a temporary duty (TDY) basis**

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**and authorized substantial overtime work. The number of cases in excess of 120 days has been all but eliminated. The FBI is continuing these efforts by bringing in additional support employees to collect file information from the field. The FBI's Counterterrorism Division is temporarily assigning additional Agents to conduct SAO reviews. Visa Condor and Visa Mantis have been given the highest priority in processing name check requests.**

**However, the FBI recognizes that the explosion in numbers of requests necessitates development of even more efficient processes in order to sustain the current pace of processing name check requests. The FBI is in the process of developing interim improvements to minimize manual submissions by all agencies and increase efficiency within the name check unit. The FBI has developed high-level functional requirements for a new name check application compatible with the new FBI information systems in development. These new information systems, over time, will eliminate dependence on the retrieval of paper files. The development of this new name check application is now undergoing review within the FBI's Investment Management Process.**

**Decentralized Recordkeeping System**

**I have touched upon our IT systems shortcomings, but now I want to discuss the primary factor in any delay in the FBI responding to a visa name check.**

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**When the NNCP systems produces a "Hit" or an "Ident" that requires further review, the analyst must consult the actual file. If he or she is lucky, the file has been uploaded into our electronic recordkeeping system, ACS, and can be instantly accessed from her workstation computer. This system only came on-line in October 1995, so often the full text of the information has not been uploaded and the analyst must resort to the paper record. Paper records are divided into two basic file categories: active files and closed files. Active files are, as the name suggests, current, on-going investigations, analytical projects, or administrative functions. Closed files are records of past investigations or functions, now inactive, but for which the FBI is required to retain the records, either in satisfaction of statutory authority or regulations, or because the information contained in the closed file represents a key component to FBI's intelligence base.**

**FBI files are currently stored at one of approximately 265 locations, including the FBI's Headquarters facility, several warehouses around the Washington Metropolitan area, in records centers either operated by the NARA or commercial concerns, four large Information Technology Center facilities on the east and west coast, at each of the 56 field offices, many of the larger of our 400 resident agencies, and at legal attaché offices worldwide. This equates to approximately 1.8 million cubic feet of decentralized records storage, which**

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**provides some unique challenges to our efforts to be optimally effective and efficient. While the FBI's decentralized paper records management process does ease field investigations and local prosecutions - a process that may have sufficed before September 11, 2001 - those terrorist attacks have forced the FBI to shift from parochial investigations to nationwide intelligence gathering and sharing.**

**In addition, statutory authorities for domestic law-enforcement and international intelligence agencies have been expanded (e.g., USA PATRIOT Act), increasing the number of agencies requesting FBI information. As the FBI is called upon to share and/or jointly investigate complex cases, it must share information internally and with other cooperating organizations. Currently, analysts conducting research on terrorism or intelligence topics who develop leads based on information indexed in files located outside Washington, DC must request those files be retrieved from the shelves and shipped to FBI Headquarters. The decentralized records management system hinders timely nationwide investigations and information sharing, since much time and effort is expended simply locating and shipping files across the United States. Beyond file retrieval delays, records security and document safety are also a growing concern.**

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**Delays have resulted from NNCP personnel identifying a file's location then requesting the file from a field office. Time delays mount as field office staff search file rooms and then ship the needed file or a prepared summary to FBI Headquarters. This process – repeated for many tasks, not only dilutes the FBI's responsiveness, but also limits information sharing – a critical success factor in working counterintelligence and counterterrorism cases. The name check delays have significant consequences to FBI customers and stakeholders. The delays impede hiring or clearing skilled workers; completing government contracts; student enrollment, and as is the interest of this Committee, clearing requested visas for business visits to the United States. More importantly than all of the foregoing, these processing delays can also diminish counterterrorism effectiveness.**

**One possible solution to these problems the FBI is exploring would be a central records repository where all of our closed paper files could be located, and our active files stored electronically. Our frequently requested closed files could be scanned and uploaded into our electronic record-keeping system, so that Agents and analysts world wide would have instant, electronic access to the information they need to do their jobs.**

**Conclusion**

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**All of these efforts reflect the FBI's recognition of the importance of accurate and timely name check processing. I want to emphasize to you, this issue has the full attention of Director Mueller. The FBI appreciates the interest of the Committee in this matter. I thank you for your invitation to speak to you today and look forward to working with you in the future. I am prepared to answer any questions the Committee may have.**